

**THE COMMON COUNCIL OF THE CITY OF NEW ALBANY,
INDIANA HELD A MEETING IN THE CITY/COUNTY BUILDING
ON THURSDAY, JANUARY 18, 2007.**

The meeting of the **New Albany City Council** was called to order by President Larry Kochert at 7:30 p.m. The meeting opened with the Lord's Prayer and the Pledge of Allegiance.

MEMBERS PRESENT: Council Members Mr. Coffey, Mr. Schmidt, Mr. Price, Mrs. Crump, Mr. Gahan, Mr. Blevins, Mr. Messer, Mr. Zurschmiede, and President Larry Kochert.

OTHERS: Council Attorney Jerry Ulrich and City Clerk Marcey Wisman.

ALSO: John Rosenbarger, Scott Wood, Planning and Zoning, Paul Wheatley, Economic Development Director, and Mayor James E. Garner, Sr.

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mrs. Crump moved to approve the minutes of January 4, 2007 as amended Mr. Price second, all voted in favor.

COMMUNICATIONS – PUBLIC:

Annie Savino, 2229 Faucet Hill Road, asked them to prepare carefully for the PUD for Summit Springs and presented handouts. She explained that the neighbors had studied the PUD and were disappointed that the Planning Commission sent this through with approval even though it wasn't unanimous with many stipulations. She went on to state that the City Planner explained the PUD as a contract for zoning and she believes that because the city is entering into a contract with the applicant it is imperative to meet all the items in the contract and if they do not then the city is entering into a contract with a bunch of variables in it.

Dick Duggins discussed the fire hiring ordinance and stated that they had a meeting last Friday and feels that it is a good working document. He also stated that if we are paying the testing company then they should be able to provide the firemen with testing material so that each individual has a chance to study.

Reverend Lacy Evans, Jones Memorial Zion church, stated that he was also there to discuss the fire hiring ordinance

Mr. Kochert stated that this item is not on the agenda tonight and he didn't realize that was what Reverend Evans was there to address.

Reverend Evans stated that the gentleman that just spoke before him had addressed the same issue.

Mr. Kochert stated that he extended a little courtesy there, and when the meeting was started he explained that they would speak to items that were on the agenda only and G-06-21 is not on the agenda. He explained that when it is put on the agenda it will be advertised.

Reverend Evans asked Mr. Kochert if he could explain why one individual was allowed to speak to an item that wasn't on the agenda.

Mr. Kochert stated that he made a mistake and he should have stopped it right at the beginning and that he would read the memo again for those that didn't hear it. He asked if One Southern Indiana was on the agenda.

Ms. Wiseman said no

Mr. Kochert called Dana Fisher and said the item that she was there to speak on wasn't on the agenda either. He then called forward Dr. Dennis Brooks and asked if he was there to speak on the same subject and again stated that it is not on the agenda. He then called Robert Caesar and asked if he was speaking to the same issue.

Mr. Caesar said that he was

Mr. Kochert stated that it will be noticed when this item is going to be on the agenda.

COMMUNICATIONS – CITY OFFICIALS:

Chief Harl explained that he had contacted the building authority about remodeling the old dispatch room and the building authority has agreed to paint the walls and do the ceiling, and he was here to address the board about doing the floors. He stated that he would like for the council to hear the bids that they got for these repairs.

Stan Brandt, presented bids that they have gotten to replace the cabinets and flooring and re-laminating the desks and the total is \$15,000. He stated that they do not have the money in their budget for major capital projects but they have elected to go to the government authority that occupies the space that needs the repair. He stated that he would recommend that the council consider these repairs.

Mr. Kochert stated that they would take it under advisement

Ron Toran stated that at the last meeting the council stated that the fire hiring ordinance would be on the agenda for tonight's meeting and that they had a meeting last Friday and he wanted to ask Mr. Blevins, who is the president of the committee, why he wasn't informed about the meeting.

Mr. Blevins stated that he didn't have time to notify anyone and that he had asked Mr. Kochert to notify all those that needed to be notified, and that he had asked Mr. Kochert about contacting Chief Toran.

Chief Toran asked what Mr. Kochert's response was.

Mr. Blevins said he was told no and he then asked about notifying Mayor Garner and was told no as well.

Chief Toran asked why they weren't notified.

Mr. Blevins stated that he wasn't the one that made the calls but that it was okay with him if they were there, but Mr. Kochert is president of the council and he said no.

Chief Toran stated that Mr. Blevins was chairman of the committee and it is his committee and his responsibility.

Mr. Blevins stated that if they had felt that Chief Toran had needed to be there then he would have gotten a call. He said that they could talk about this at anytime without a meeting and there was no need to make a display.

Chief Toran stated that he wanted to clarify that they have spent two years on this ordinance and Mr. Kochert comes in as the new president and puts himself on the committee for this issue without any background, then they are told that the ordinance will be on the agenda so the public show up to speak about it and they aren't allowed to have a say. He stated that he doesn't feel this is right.

Mr. Kochert stated that Chief Toran told him during the last meeting that he did not want to attend anymore of these meetings.

Chief Toran stated that these meetings are in a public forum and at the last one Mr. Kochert had asked if he wanted to be on the committee and he said yes.

Mr. Kochert said that he did not hear him say that.

Mrs. Crump stated that the Mayor was the one that asked him to if he wanted to be on the committee.

Mr. Toran asked Mrs. Crump if he was correct in stating that he had responded with yes.

Mrs. Crump stated that he was correct.

Mr. Blevins explained that the committee brought it back to the floor, and it died. He said they tried to get it passed and certain members of the council wouldn't pass it. He stated that he asked at the last meeting for this to be put on the agenda but he doesn't have final say on what goes on the agenda or it would have been on there.

Chief Toran asked if Mr. Kochert had tabled it.

Mr. Kochert read from the previous week's minutes that Mr. Blevins tabled the ordinance so that the committee could meet regarding it.

Chief Toran asked Ms. Wisman to explain the call that she had received Saturday regarding the ordinance.

Ms. Wisman explained that she received a call from Mr. Blevins last week telling her to put it back on the agenda, and then she received a call over the weekend telling her to take it back off because of some discrepancies over what they had been told by the Mayor and what he has said to Mr. Mason. She stated that she then contacted Mr. Blevins because he is the one that is sponsoring it and he said yes to take it off.

Chief Toran asked who the second call was from.

Ms. Wisman said it was Mr. Kochert

Mr. Blevins said that Ms. Wisman could verify that he told her that Mr. Kochert was the president and he wasn't going to bump what he says goes on the agenda but they could put it back on tonight as far as he was concerned.

Chief Toran stated that each council member has a vote and that it isn't a dictatorship that goes by what the president says. He explained that they have been working on this for three years now and they aren't going away.

Mr. Kochert asked Chief Toran if he had just hired 6 new people

Chief Toran stated that he had.

Mr. Kochert asked if he hired them under the old ordinance.

Chief Toran said yes and asked Mr. Kochert if he had said the ordinance was unequal

Mr. Kochert stated that he did say that and that Chief Toran had stated that the reason that the fire department is in the red is because of the ambulance service.

Chief Toran stated that he said the fire department is in the red because of overtime, and he explained that it has always been told to the public that the ambulance service is making money, but in fact it hasn't made money since the first time he was Chief ten years ago and now they have two and there aren't that many more runs. He said it is true that it brings in money but if you spend more than you bring in is that really bring in money.

Mr. Coffey asked Mr. Toran to go back to the first ordinance that was passed under Regina Overton. He said that ordinance wasn't fair because they wouldn't grant interviews.

Chief Toran stated that this was a pilot program that could be directed or changed.

Mr. Coffey stated that when the second ordinance came around with changes he was supportive of it until he found out who it was that was going to be hired, and they were all politicians relatives and he stated at the time that he wanted people from his district as well as the other four districts to have just as much opportunity for those jobs. He explained that he wouldn't have voted on the ordinance tonight because he hasn't even seen it and he didn't even know that they were that close to doing one.

Mrs. Crump said that he hadn't seen the one that they are working on because it is not that much different than the one that he had originally. The percentages have changed in how the firefighters are scored, but that is it. She explained that Mr. Kochert had asked them not to bring the item to the meeting because he has some concerns that he wanted to get cleared up, and that is why he doesn't have it.

Mr. Coffey stated that they all vote on this and he wants more than one or two days to look it over.

Chief Toran stated that he would like to know tonight when it is going to be on the agenda, and that these people came here for nothing.

Mr. Kochert asked who had told them to come there for nothing.

Chief Toran stated that it was part of public record. The council announced at the last meeting that it was going to be on the agenda.

Mr. Kochert said he wanted on paper whoever it was that said that the test was discriminatory against Afro Americans.

Chief Toran stated that Amy Emerson from the testing company said that women, Hispanics, minorities didn't score high on this test. He explained that they don't have to adjust the test, just get the scores down.

Mr. Kochert asked what exactly they are doing by bringing the scores down.

Chief Toran said they are bringing them in proportion.

Mr. Kochert stated that he asked about the quality of this test and he was told it is about on and eighth grade level.

Mrs. Crump stated that they have changed the score like Chief is requesting but she wanted him to know that there are some of his men that believe that the written part is just as important as the agility because they still have a state test that they have to pass.

Chief Toran stated that Mrs. Crump is talking to people that don't know what they are talking about so this doesn't surprise him. That he has been on the department longer than anyone else in the department and that he has been chief longer than anyone in the department so he knows what he is talking about.

Mrs. Crump said she finds it insulting that someone would say that African Americans can't pass this test and that she doesn't believe that to be true.

Chief Toran stated that he never said they couldn't pass but that minorities scored low.

Mr. Kochert said that they were told the test was discriminatory.

Chief Toran stated that if they had come to him and asked then they would have known. He explained that the problem is that they never go to the people that know what is going on and that Mr. Kochert has never even been to his office since he has been chief but he was in the previous Chiefs office a lot.

Mr. Kochert stated that he was in there a total of four times

Chief Toran said but you were there and that is four more times than you have seen me. He stated that they are tired of being ignored and that there was a rumor going around that Mr. Kochert didn't even know what an African American was until he was fifteen and he wanted to know how he could be a leader.

Deputy Chief Mason stated that the council has to understand that you can be a member of the fire department and not be part of the union and that the committee was only speaking with union members. He explained that if they had any questions to please come to him or Chief Toran and that he thought it was very disrespectful for them to leave the Chief out of the meeting. He said the agility test needs to have a percentage added to it.

Mr. Kochert asked if he thought 35 and 35 was a fair percentage.

Mr. Mason said he did think that was fair and he also thought that a New Albany resident should get additional points.

Jeff Gahan reported that he, Mr. Zurschmiede and Mr. Schmidt had met regarding One Southern Indiana and they were going to try to bring that back by the next meeting.

Mr. Coffey asked if he could report on his findings on the amount of land available in Clark and Floyd County.

Mr. Gahan stated that he is correct that there is more available land in Clark County but that he would rather present everything as a whole and not piece meal.

Mr. Schmidt presented information that he received from an IACT meeting he attended yesterday and discussed legislation that they are opposing and the issue of the lowering amount of taxes coming in and the increased amount of cost.

Steve LaDuke, President Building Commissioner's office, gave an up-date on what is going on in the Building Commissioners Office. He stated that software and computer equipment that has been on hand for over a year now is in place and operating, and that all license are up to date and available on demand. He asked the council to bring forward next week for a resolution to appropriate \$56,000 to bring the fund back to \$0 and add an additional \$50,000.

Mr. Coffey stated that he was only on this board because of political favors and pointed out that he no longer lives within the city limits. He then asked Mr. LaDuke if he had been doing air conditioning work without permits.

Mr. LaDuke said absolutely not

Mr. Coffey asked if Mr. Lenz was back or on stand-by because he was threatened with his job.

Mayor Garner said that was not the case but that this was not the forum to talk about it.

COMMUNICATIONS – MAYOR:

Mayor Garner asked if One Southern Indiana and the Fire Hiring Ordinance will be on the agenda next week.

Mr. Kochert stated that it depends on whether or not he gets the information he said he would bring him where the testing company said it was discriminatory.

Mayor Garner stated that he told them that African Americans don't do well on this test and all standardized test have to be of an equal level so that anyone without a degree can pass, unless the job requires a particular degree. He explained that they aren't asking to lower anything but to level the playing field. He said the lady from the company isn't going to put what was said in black and white because they do not want to be liable and that they will have to take the word of the chief.

Mayor Garner reported on the legislative meeting and stated that they are trying to cut the funding for the DROP program and he is going to testify to extend the funding. He asked once again what he could tell people when they asked about the fire hiring ordinance and the One Southern Indiana ordinance.

Mr. Blevins asked Ms. Wisman to put the ordinance back on the agenda for next meeting and asked if she could get a copy of it to all the members.

Mayor Garner told Mr. Coffey that the six fire fighters that were hired were the six top scorers, and that there were no politics played in that at all.

Mr. Coffey stated that some of them had the right names.

Mayor Garner said regardless of their name they were the six top scores

Mr. Coffey asked if they were looking into using a new test

Mayor Garner explained the test as it is now and then recommended that they use a new testing company in the future and stated that the ordinance states that they have to use and independent company. He also suggested that they find a test that has study material available if someone is motivated enough to go out and get it.

Mr. Kochert stated that Mr. Duggin's sons was a good example of that, he explained that he took the test three times and then on his own went out and got study material and was able to pass.

Mayor Garner stated that it is an option for the city to get a copy of the test and administer it, but he didn't think that was the best idea. He said that whichever way they intend to go they just need to make sure the test was fair and gave everyone an opportunity to pass.

Mrs. Crump stated that she would not vote for the city giving the test and that she thought that the only option would be to go with an independent company because if the city administered the test there would be the question of politics brought back into it.

Steve price brought up the train that wrecked in Kentucky and stated that if that had happened in New Albany it would be major catastrophe and he asked what he is doing to take care of this.

Mayor Garner explained that they are aware of a crushed pipe under the rail road and that the sewer board will most likely be voting to get a geotech study done of 15th Street. He stated that they can continue to deal with that problem but there is a big issue with whether or not CSX will fix the tracks, and that they had sent a letter to the chairman of CSX and they received a local response saying that they no longer have engineers that cover this territory.

Mr. Price said that people do not realize that those trains transport very hazardous material

Mr. Rosenbarger presented an amendment for the Purdue Research Center.

APPOINTMENTS:

Mr. Kochert discussed the list of appointments and asked for a motion to approve.

Mrs. Crump moved to approve, Mr. Schmidt second, all voted in favor.

(See attached list of appointments)

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES AND RESOLUTIONS:

R-07-03 Resolution to Allow Payment for Purchase of
Security Equipment Which Will be Repaid Through
A Reimbursable Grant to the Police Department

Mr. Price moved for the reading of R-07-03, Mr. Coffey second, all voted in favor.

R-07-04 Resolution to Allow Payment for Software From
Spillman Technology to the Police Department

Mr. Zurschmiede moved for the reading of R-07-04, Mr. Schmidt second,

Mr. Zurschmiede asked what this software will be used for.

Major Mike Lawrence explained that this is for software to put on the computers that are in the cars to improve the gathering of information. He stated that he purchased all the computers with grant money.

All voted in favor.

A-07-02 An Ordinance to Approve the 2006 Rates for the
Communications (CWA) Employees

Mrs. Crump moved for the first reading of A-07-02, Mr. Price second,

Mr. Coffey stated that when these contracts are held up and they get paid in a lump sum the employees get nailed on the taxes.

Mrs. Crump stated that the council has nothing to do with how long it takes to negotiate a contract. She explained that this has nothing to do with the \$130,000.00 that they received from the 9-1-1 Fund.

All voted in favor.

A-07-01 Additional Appropriation

Mr. Messer moved for the second and third reading of A-07-01, Mr. Schmidt second, the bill passed with Mr. Schmidt, Mrs. Crump, Mr. Gahan, Mr. Messer, Mr. Zurschmiede and Mr. Kochert voting aye; and Mr. Coffey, Mr. Price and Mr. Blevins. Bill A-07-01 became Ordinance A-07-01

Z-07-02 Ordinance Amending the Code of Ordinances of
New Albany, Indiana, Title XV, Chapter 156
(Docket P-13-06: Discovery Builders - Pinehurst
Subdivision)

Mrs. Crump moved for the second and third reading of A-07-02, Mr. Price second, all voted in favor. Bill Z-07-02 became Ordinance Z-07-02.

Z-07-03 Ordinance Amending the Code of Ordinances of
New Albany, Indiana, Title XV, Chapter 156

(Docket P-14-06: Purdue University Research
Foundation)

Mr. Rosenbarger stated that the amended ordinance clarifies the use of Section 4 of the development.

Mr. Schmidt moved to amend to conform to the documents presented to the council, Mr. Coffey second, all voted in favor.

Mr. Schmidt moved for the second and third reading of A-07-03, Mr. Coffey second, all voted in favor. Bill Z-07-03 became Ordinance Z-07-03.

There being no further business before the council, the meeting adjourned at 8:54 p.m.

Larry Kochert, President
Common Council, City of New Albany

ATTEST: _____
Marcey Wisman, City Clerk